

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**DEBRA SIMON,
Plaintiff,**

v.

**MACY'S EAST, INC., And
FEDERATED DEPARTMENT
STORES, INC and
MACY'S EAST, INC,
ENHANCED SEVERANCE PLAN
FOR TOP OF THE RANGE
HOURLY EMPLOYEES-GROUP
1,
Defendants**

CIVIL ACTION NO. 05-CV-10182 RWZ

DEFENDANTS' AUTOMATIC DISCLOSURES, FED. R. CIV. P. 26(a)(1) & (2)

Defendants, Macy's East, Inc., Federated Department Stores, Inc. and Macy's East Enhanced Severance Plan for Top of the Range Hourly Employees-Group 1 (the "Macys Defendants" or the "Defendants"), by and through their attorneys, Morgan, Brown and Joy, LLP, hereby provide the following information in compliance with the automatic disclosure requirements of Federal Rules of Civil Procedure 26(a)(1) and (2) and Local Rule 26.2(A). Defendant will supplement or correct this response as required by Rule 26(e), if necessary. Any document referred to or provided pursuant to this statement shall not be construed to waive any privilege or protection that may attach to any document including (1) the attorney-client privilege, work-product privilege, or any other privilege either generally or as they may attach to particular documents, or (2) objections as to the relevance or admissibility of the identified documents.

1. INDIVIDUALS WITH DISCOVERABLE INFORMATION

The following individuals are likely to have discoverable information relevant to the facts alleged with particularity in the Plaintiff's complaint as required to be disclosed by Fed. R. Civ. P. 26 (a)(1)(A). The following individuals are employees of one or more of the Defendants and are knowledgeable about the substance of the Enhanced Severance plan, and the Plaintiff's communication concerning the plan, her resignation, and request for leave of absence:

- Judy Walker, c/o Macy's East, Burlington Mall, Burlington, MA
- Cathleen Blick, c/o Macy's East, 151 West 34th Street, New York, NY 10001; 212-494-1650
- Bradley Belz, , c/o Macy's East, 151 West 34th Street, New York, NY 10001; 212-494-1650
- William Ives, , c/o Macy's East, 151 West 34th Street, New York, NY 10001; 212-494-1650
- Michael Tumler, c/o Federated Human Resources Services, Mason, OH 45040
- Diana Fiore, c/o Macy's East, 151 West 34th Street, New York, NY 10001; 212-494-1650

2. DOCUMENT DESCRIPTIONS BY CATEGORY

Pursuant to Fed. R. Civ. P. (a)(1) (B), the Defendants furnish the following document description by category concerning documents, data compilations, and tangible things that are in the possession, custody, or control of the Defendants that it may use to support its defenses, other than solely for impeachment;

- a. Documents and Correspondence related to the Enhanced Severance Plan and the

Plaintiff's failure to seasonably accept it.

- b. Location of Documents: all non-privileged documents are within the custody, possession or control of the Defendants, and will be made available for inspection and copying at the offices of Morgan, Brown and Joy, LLP, 200 State Street, Boston, MA 02109. Other relevant documents may be in the possession of the Plaintiff, her husband, her agents and attorneys.
- a. Documents and Correspondence related to the Plaintiff's resignation, and abandonment of her position.
- b. Location of Documents: all non-privileged documents that are within the custody, possession or control of the defendants, and will be made available for inspection and copying at the offices of Morgan, Brown and Joy, LLP, 200 State Street, Boston, MA 02109. Other relevant documents may be in the possession of the Plaintiff, her husband, her employers, her agents and attorneys.
- a. Documents and Correspondence related to the Plaintiff's employment.
- b. Location of Documents; all non-privileged documents are within the custody, possession or control of the defendants, and will be made available for inspection and copying at the offices of Morgan, Brown and Joy, LLP, 200 State Street, Boston, MA 02109. Other relevant documents may be in the possession of the Plaintiff, her husband, her subsequent employers, her agents and attorneys.

3. INSURANCE AGREEMENTS

Defendants state that they maintain employment practices liability insurance. However, the applicable policy contains a deductible amount of \$2,000,000.00 per occurrence, which is not likely to be exhausted in this case based upon current information.

Therefore, Defendants do not attach a policy hereto.

4. DISCLOSURE OF EXPERT TESTIMONY

The Defendant has not identified an expert to provide expert testimony in the case, or whose duties regularly involve giving expert testimony, pursuant to Mass. R. Civ. P.

26(a)(2)(B). The Defendant will supplement this response if it retains or identifies such a witness.

Respectfully submitted by

Macy's East, Inc., Federated Department
Stores, Inc, and Macy's East, Inc., Enhanced
Severance Plan for Top of the Range Hourly
Employees-Group 1,

By their attorneys,

/s/ Daniel S. Field /s/ Robert P. Joy
Robert P. Joy (BBO No. 254820)
Daniel S. Field (BBO No. 560096)
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200 State Street
Boston, Massachusetts 02109-2605
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Dated: August 29, 2005